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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,598	08/01/2003	Eric Schneider		1597

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ERIC SCHNEIDER
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DELRAY BEACH, FL 33483

EXAMINER

PERRY, LINDA C

ART UNIT	PAPER NUMBER
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3695

MAIL DATE	DELIVERY MODE
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10/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/604,598

Applicant(s)

SCHNEIDER, ERIC

Examiner

LINDA C. PERRY

Art Unit

3693

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 October 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 5-26.
Claim(s) withdrawn from consideration: 1-4.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
The proposed amendments raise new issues requiring further consideration and/or search. Please see Note attached.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Stefanos Karmis/
Primary Examiner, Art Unit 3693

I. The proposed post-final amendment will not be entered

The proposed amendment does not place the case in better form for appeal, or in condition for allowance.

Claims 5, 6, 25, and 26 in the proposed amendment present new issues requiring further consideration and/or search. The proposed changes in claim 6, which include changing 'receiving at a first time a first amount' to 'receiving a plurality of data elements including... a second data element including a first time' and also changing '[receiving at a first time a first amount] corresponding to a second time' to '...determining a second time' and also changing 'one of a first amount and second amount is representative of an amount that is not legal tender' to 'said first amount is a non-monetary amount and said second amount is a non-monetary amount' the analogous changes in claims 25 and 26, and the change in claim 5 of 'one of an account and account interest is representative of an amount that is not legal tender' to 'said account balance is a non-monetary amount and said account interest is a non-monetary amount' would all require further consideration and/or search.

Since the proposed amendment presents additional claims without canceling any finally rejected claims it is not considered as placing the application in better condition for appeal. Ex Parte Wirt, 1905 C.D. 247, 117 O.G. 599 (Comm'r Pat. 1905).

II. Applicants' Remarks

1. Request for Constructive Assistance

Examiner is not aware of allowable matter in the claims.

2. Priority

Applicants' arguments are moot given that the proposed post-final amendment will not be entered.

3. Objections and Suggestions

Applicant has proposed an amendment to show first time being a received data element and calculating a second amount from, in part, a difference between second time and first time. Since both times are inputs to the calculation, the second amount must be calculated after both times are known. It is possible for the times not to have occurred, given the changes in the claims made by the proposed post-final amendments.

4. Rejection of Claims 6-26 Under U.S.C. 112

Applicants' arguments are moot given proposed post-final amendments to the claims.

5. Rejection of Claims 6-8 and 15-24 Under U.S.C. § 102 as being anticipated by Iannacci

Applicants' arguments regarding calculation of non-monetary awards from cash (in fact, a dollar amount, not cash) are moot given Applicant's proposed post-final amendments to the claims.

Regarding the third step of claim 6, Applicant writes: "whereas Applicant teaches how a difference in time is a function of the step of non-monetary calculation".

Examiner suggests what Applicant means is that the non-monetary amount is calculated by determining first the time difference and then finding the non-monetary amount using the time difference. Thus the non-monetary amount (not the step of calculating it) is function of the time difference, not the other way around.

Furthermore, Applicant says 'Applicant does teach accrual of non-monetary account interest related to an account holder's non-monetary balance'. Examiner once more informs applicant that what he teaches is not in the claims. Independent claim 6 says nothing about accruing and nothing about interest. Examiner once more suggests that Applicant always positively recite all the limitations he wishes to claim in his claims.

6. Rejection of Claims 25 and 26 under U.S.C. § 102-Wolfberg

Applicant's arguments are moot given Applicant's proposed post-final amendments to the claims. Examiner notes that once again Applicant argues teaching of interest, although interest is not in his independent claims 25 and 26 at all, and Applicant cites Wolfberg passages never relied upon at all.

7. Rejection of Claims 25 and 26 under U.S.C. § 103-Wolfberg in view of Iannacci

Once again Applicant argues that Wolfberg and Iannacci both fail to teach accrual of ...account interest. Applicant is again reminded that Examiner will not import into the claims or argue limitations not present in the claims.

Applicant's arguments concerning non-monetary amounts are moot given Applicant's proposed post-final amendments to the claims.